

AMENDED IN SENATE JUNE 16, 2008

AMENDED IN ASSEMBLY MAY 23, 2008

AMENDED IN ASSEMBLY MARCH 28, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2288

Introduced by Assembly Member Torrico

February 21, 2008

An act to amend Section 7145.5 of the Business and Professions Code, and to amend Sections 13195, 13195.5, 13196.5, 13197, 13197.5, and 13198 of, and to add Sections 13197.1 and 13197.6 to, the Health and Safety Code, relating to automatic fire extinguishing systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 2288, as amended, Torrico. Automatic fire extinguishing systems: certificate of registration.

(1) Existing law requires the State Fire Marshal to adopt and administer the regulations and building standards he or she deems necessary in order to establish and control a program for servicing, testing, and maintaining all automatic fire extinguishing systems, including, but not limited to, fire sprinkler systems. These regulations and building standards are required to consider the requirements of the applicable standards of the National Fire Protection Association and specified voluntary standards published by the State Fire Marshal.

This bill would require the State Fire Marshal to expand these regulations and building standards to include the installation of automatic fire extinguishing systems, and would no longer require consideration of the voluntary standards. The bill would provide that any licensed contractor who violates any of the building laws or

standards enacted or adopted pursuant to these provisions shall be subject to disciplinary action by the Contractors' State License Board.

(2) Existing law prohibits any person from engaging in the business of servicing or testing automatic fire extinguishing systems without a license issued by the State Fire Marshal, except as specified. Existing law requires the State Fire Marshal to adopt regulations to establish and maintain that license, including bases for denial or revocation, a schedule of fees for administration and enforcement, and the period for and renewal of licensure. Existing law makes any violation of these provisions or any regulation or building standard of the State Fire Marshal a misdemeanor.

This bill would prohibit any person from installing or modifying fire sprinklers, a fire sprinkler system, a wet standpipe system, or an engineered fixed automatic fire extinguishing system without a certificate of registration issued by the State Fire Marshal, except as specified. The bill would require the State Fire Marshal to adopt regulations to establish and maintain that certificate of registration, including qualifications, continuing education, bases for denial or revocation, a schedule of fees for administration and enforcement, and the period for, and renewal of, the certificate of registration. *The bill would also require the State Fire Marshal to establish a program for a limited certificate of registration to be made available to persons installing fire sprinkler systems in one- and 2-family dwellings who complete requirements for examination, training, and experience, as specified and provide for the issuance of a temporary certificate of registration without having to take an examination given by the State Fire Marshal for applicants who meet specified qualifications. This bill would authorize the fire authority having jurisdiction to issue a "stop work order" as a remedy to obtain compliance with these provisions.*

Because a violation of these requirements would be a misdemeanor, the bill would impose a state-mandated local program by changing the definition of a crime.

(3) Existing law authorizes the registrar of contractors to refuse to issue, reinstate, reactivate, or renew a contractor's license, or to suspend a contractor's license, for the failure of a licensee to resolve all outstanding final liabilities, which include any fees that may be assessed by the Contractors' State License Board, the Department of Industrial Relations, the Employment Development Department, or the Franchise Tax Board.

This bill would include as outstanding final liabilities, for purposes of this provision, any fees that may be assessed by the Office of the State Fire Marshal.

(4) State law authorized the State Fire Marshal, until January 1, 2008, to permit a person licensed to engage in the business of servicing or testing automatic fire extinguishing systems, as described in (2) above, to pay a monetary penalty to the State Fire Marshal in lieu of an actual suspension of his or her license.

This bill would restore that authority to the State Fire Marshal, and would expand it to permit the payment of a monetary penalty by persons holding a certificate of registration, as described in (2) above. The bill would provide for any penalties received to be deposited into the State Fire Marshal Licensing and Certification Fund.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7145.5 of the Business and Professions
2 Code is amended to read:
3 7145.5. (a) The registrar may refuse to issue, reinstate,
4 reactivate, or renew a license or may suspend a license for the
5 failure of a licensee to resolve all outstanding final liabilities, which
6 include taxes, additions to tax, penalties, interest, and any fees that
7 may be assessed by the board, the Department of Industrial
8 Relations, the Employment Development Department, the
9 Franchise Tax Board, or the Office of the State Fire Marshal.
10 (1) Until the debts covered by this section are satisfied, the
11 qualifying person and any other personnel of record named on a
12 license that has been suspended under this section shall be
13 prohibited from serving in any capacity that is subject to licensure
14 under this chapter, but shall be permitted to act in the capacity of
15 a nonsupervising bona fide employee.
16 (2) The license of any other renewable licensed entity with any
17 of the same personnel of record that have been assessed an

1 outstanding liability covered by this section shall be suspended
2 until the debt has been satisfied or until the same personnel of
3 record disassociate themselves from the renewable licensed entity.

4 (b) The refusal to issue a license or the suspension of a license
5 as provided by this section shall be applicable only if the registrar
6 has mailed a notice preliminary to the refusal or suspension that
7 indicates that the license will be refused or suspended by a date
8 certain. This preliminary notice shall be mailed to the licensee at
9 least 60 days before the date certain.

10 (c) In the case of outstanding final liabilities assessed by the
11 Franchise Tax Board, this section shall be operative within 60 days
12 after the Contractors' State License Board has provided the
13 Franchise Tax Board with the information required under Section
14 30, relating to licensing information that includes the federal
15 employee identification number or social security number.

16 (d) All versions of the application for contractors' licenses shall
17 include, as part of the application, an authorization by the applicant,
18 in the form and manner mutually agreeable to the Franchise Tax
19 Board and the board, for the Franchise Tax Board to disclose the
20 tax information that is required for the registrar to administer this
21 section. The Franchise Tax Board may from time to time audit
22 these authorizations.

23 SEC. 2. Section 13195 of the Health and Safety Code is
24 amended to read:

25 13195. (a) The State Fire Marshal shall adopt and administer
26 the regulations and building standards he or she deems necessary
27 in order to:

28 (1) Establish and control a program for installing, servicing,
29 testing, and maintaining all automatic fire extinguishing systems,
30 including, but not limited to, fire sprinkler systems, engineered
31 and preengineered fixed extinguishing systems, standpipe systems,
32 and waterflow alarm devices.

33 (2) Establish minimum frequencies of service, inspection, and
34 testing for the various types of automatic fire extinguishing
35 systems.

36 (b) All tests of automatic sprinkler systems shall include a test
37 of all supervisory signaling equipment that is provided to determine
38 whether a condition exists that will impair the satisfactory operation
39 of the system.

1 (c) The regulations and building standards established by the
2 State Fire Marshal for installing, servicing, testing, and maintaining
3 automatic fire extinguishing systems shall consider the
4 requirements of the applicable standards of the National Fire
5 Protection Association.

6 SEC. 3. Section 13195.5 of the Health and Safety Code is
7 amended to read:

8 13195.5. Every automatic fire extinguishing system, including,
9 but not limited to, fire sprinkler systems, engineered and
10 preengineered fixed extinguishing systems, standpipe systems,
11 and alarm and supervisory equipment attached to those systems
12 shall be installed, serviced, tested, and maintained in accordance
13 with the regulations and building standards adopted by the State
14 Fire Marshal pursuant to Section 13195.

15 SEC. 4. Section 13196.5 of the Health and Safety Code is
16 amended to read:

17 13196.5. (a) Except as provided in subdivisions (b), (c), and
18 (d), no person shall engage in the business of servicing or testing
19 automatic fire extinguishing systems without a license issued by
20 the State Fire Marshal pursuant to this chapter. No person shall
21 install or modify fire sprinklers, a fire sprinkler system, a wet
22 standpipe system, as defined by the National Fire Protection
23 Association, or an engineered fixed automatic fire extinguishing
24 system without a certificate of registration issued by the State Fire
25 Marshal.

26 (b) Persons who engage in the business of installing, servicing,
27 or testing fire alarm devices, waterflow alarm devices, or the
28 supervisory signaling components of automatic fire extinguishing
29 systems, and persons who install or modify dry standpipe systems,
30 as defined by the National Fire Protection Association, or
31 preengineered fixed fire extinguishing systems, shall not be subject
32 to the licensing or certification requirements contained in this
33 chapter.

34 (c) Industrial systems may be serviced or tested by, or under
35 the supervision of, an engineer employed by a private entity who
36 shall not be subject to the licensing requirements contained in this
37 chapter unless he or she performs the service or testing for a fee
38 outside of the employment relationship.

(d) Any specialty contractor, as defined in subdivision (b) of Section 7058 of the Business and Professions Code, shall not be subject to the licensing requirements contained in this chapter.

(e) Any person licensed under Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, who violates any of the building laws or standards enacted or adopted pursuant to this chapter, shall be subject to Section 7110 of the Business and Professions Code and, accordingly, subject to disciplinary action by the Contractors' State License Board.

SEC. 5. Section 13197 of the Health and Safety Code is amended to read:

13197. (a) (1) The State Fire Marshal shall adopt regulations to establish and maintain the licensing and certificate of registration programs required by this chapter. ~~To~~

(2) ~~To~~ the extent the State Fire Marshal determines is necessary to carry out the provisions of this chapter, the regulations may provide for, but need not be limited to, requirements that the applicant for a license pass an examination or possess the qualifications necessary to perform the prescribed installation, service, maintenance, and testing, or both.

(b) (1) *Notwithstanding subdivision (a) and Section 13197.1, the State Fire Marshal shall establish a program to certify those persons whose services are limited to installing fire sprinkler systems in one- or two-family dwellings, in accordance with NFPA 13D.*

(2) *The applicant for this limited certificate of registration shall pass a written examination as deemed appropriate by the State Fire Marshal and shall comply with all training and experience requirements as determined by the State Fire Marshal.*

SEC. 6. Section 13197.1 is added to the Health and Safety Code, to read:

13197.1. (a) A certificate of registration may be issued only to an applicant who meets all of the following conditions:

(1) Passes a written examination given by the State Fire Marshal.

(2) Completes any state or federally approved fire sprinkler fitter ~~or plumbing and~~, *plumbing*, or pipe fitters apprenticeship program, or any other appropriate training program as recognized by the State Fire Marshal.

(3) Complies with all other provisions of this chapter.

(b) Notwithstanding subdivision (a) of Section 13196.5, commencing July 1, 2009, a person who does not possess a valid certificate of registration may install fire sprinklers if he or she can provide evidence to the State Fire Marshal that he or she is currently enrolled and attending any state or federally approved fire sprinkler fitter ~~or plumbing and apprenticeship program, California state approved plumbing or pipe fitters apprenticeship program, or any other appropriate training program as recognized by the State Fire Marshal.~~ Upon application and providing adequate evidence of that enrollment as determined by the State Fire Marshal, the State Fire Marshal shall issue that person an identification card, renewable annually, and required until the holder successfully completes all requirements and is issued a certificate of registration. The State Fire Marshal may collect a fee to cover its actual cost to issue the identification card. The cardholder shall be directly supervised by a person who is a holder of a valid certificate of registration.

(c) Notwithstanding subdivision (a), an applicant for a certificate of registration who can provide evidence of at least 10,000 hours of accumulative experience as a fire sprinkler fitter in any state on or after July 1, 1999, ~~or and~~ who has successfully completed any state or federally approved fire sprinkler fitter apprenticeship program, ~~or any other appropriate training program as recognized by the State Fire Marshal, or both,~~ prior to January 1, 2009, and who is in compliance with all other provisions of this chapter, shall be issued a *temporary* certificate of registration without having to take an examination given by the State Fire Marshal.

(d) Notwithstanding subdivision (a), any person validly licensed as a fire protection contractor (C-16), as set forth in Section 832.16 of Title 16 of the California Code of Regulations, may apply to take a written examination given by the State Fire Marshal without first completing a recognized apprenticeship program. Upon passing the State Fire Marshal written examination, the holder of a valid C-16 contractor's license shall be issued a certificate of registration pursuant to this section.

(e) Notwithstanding subdivision (a), any applicant for a certificate of registration who can provide evidence of at least 10,000 hours of accumulative experience as a plumber or pipefitter ~~in any state on or after July 1, 1999, or who has successfully completed any state or federally approved plumbing and pipefitter~~

~~1 apprenticeship program, or any other appropriate training program
2 as recognized by the State Fire Marshal, or both, prior to January
3 1, 2009, and who is in compliance with all other provisions of this
4 chapter, may apply for and take the written examination for a
5 certificate of registration. Upon passing the written examination,
6 a certificate of registration shall be issued by the State Fire Marshal.
7 on or after July 1, 1999, who has successfully completed a
8 California state approved plumbing or pipefitter apprenticeship
9 program prior to January 1, 2009, and who is in compliance with
10 all other provisions of this chapter, shall be issued a temporary
11 certificate of registration without having to take an examination
12 given by the State Fire Marshal.~~

(f) All persons holding a certificate of registration pursuant to this chapter shall complete a minimum of eight hours annually of continuing education for fire sprinkler fitters as preapproved by the State Fire Marshal. Evidence of completion shall be submitted to the State Fire Marshal with the application for renewal of the certificate of registration. Up to eight hours of continuing education earned in excess of the eight hours required during the year of the current certificate of registration may be carried over into the succeeding year. All applicants for renewal of a certificate of registration shall complete the continuing education requirement as a condition to establish eligibility for renewal. The continuing education requirement does not apply until the conclusion of the first full year after initial issuance of the certificate of registration.

(g) (1) *Persons who meet the provisions of subdivisions (c) and (e) shall be issued a temporary certificate of registration to be renewed annually by the holder after payment of the appropriate fee.*

(2) *The temporary certificate of registration shall be valid for a period of five years from the date of issuance.*

(3) *On or before the date of expiration, the temporary certificate of registration holder shall pass the State Fire Marshal's written examination in order to be issued a permanent certificate of registration.*

(4) *During the period in which the temporary certificate of registration is valid, the holder shall annually complete the required continuing education requirements as set forth in subdivision (f).*

1 (h) (1) *The State Fire Marshal, his or her representative, or*
2 *the local fire authority having jurisdiction may issue a “stop work*
3 *order” pursuant to the California Fire Code or any other municipal*
4 *or local ordinance, if any provision of this section is violated.*

5 (2) *The “stop work order” shall continue in force until the*
6 *violation is corrected.*

7 (3) *This remedy for compliance shall be available in addition*
8 *to any other remedy for compliance that is available to the fire*
9 *authority having jurisdiction.*

10 SEC. 7. Section 13197.5 of the Health and Safety Code is
11 amended to read:

12 13197.5. A license or certificate of registration may be denied
13 or revoked by the State Fire Marshal for either of the following
14 reasons:

15 (a) The applicant made a material misrepresentation or false
16 statement in the application.

17 (b) Violation of any provision of this chapter or any regulation
18 adopted by the State Fire Marshal pursuant to this chapter.

19 SEC. 8. Section 13197.6 is added to the Health and Safety
20 Code, to read:

21 13197.6. (a) (1) If the State Fire Marshal or his or her designee
22 determines that the public interest and public welfare will be
23 adequately served by permitting a person licensed or holding a
24 certificate of registration pursuant to this chapter to pay a monetary
25 penalty to the State Fire Marshal in lieu of an actual suspension
26 of his or her license or certificate of registration, the State Fire
27 Marshal or his or her designee may, on the petition of the licensee
28 or holder of the certificate of registration, stay the execution of all
29 or part of the suspension if all of the following conditions are met:

30 (A) The violation that is the cause for the suspension did not
31 pose, or have the potential to pose, a significant threat or risk of
32 harm to the public.

33 (B) The licensee or holder of a certificate of registration pays
34 a monetary penalty.

35 (C) The licensee or holder of a certificate of registration does
36 not incur any other cause for disciplinary action within a period
37 of time specified by the State Fire Marshal or his or her designee.

38 (2) In making the determination, the State Fire Marshal or his
39 or her designee shall consider the seriousness of the violation, the
40 violator’s record of compliance with the law, the impact of the

1 determination on the licensee or holder of a certificate of
2 registration, the licensee's employees or customers, and other
3 relevant factors.

4 (b) The State Fire Marshal or his or her designee may exercise
5 the discretion granted under this section either with respect to a
6 suspension ordered by a decision after a contested hearing on an
7 accusation against the licensee or holder of a certificate of
8 registration, or by stipulation with the licensee or holder of a
9 certificate of registration after the filing of an accusation, but prior
10 to the rendering of a decision based upon the accusation. In either
11 case, the terms and conditions of the disciplinary action against
12 the licensee or holder of a certificate of registration shall be made
13 part of a formal decision of the State Fire Marshal or his or her
14 designee.

15 (c) If a licensee or holder of a certificate of registration fails to
16 pay the monetary penalty in accordance with the terms and
17 conditions of the decision of the State Fire Marshal or his or her
18 designee, the State Fire Marshal or his or her designee may, without
19 a hearing, order the immediate execution of all or any part of the
20 stayed suspension in which event the licensee or holder of a
21 certificate of registration shall not be entitled to any repayment
22 nor credit, prorated or otherwise, for money paid to the State Fire
23 Marshal under the terms of the decision.

24 (d) The amount of the monetary penalty payable under this
25 section shall not exceed two hundred fifty dollars (\$250) for each
26 day of suspension stayed or a total of ten thousand dollars
27 (\$10,000) per decision regardless of the number of days of
28 suspension stayed under the decision.

29 (e) Any monetary penalty received pursuant to this section shall
30 be deposited in the State Fire Marshal Licensing and Certification
31 Fund.

32 SEC. 9. Section 13198 of the Health and Safety Code is
33 amended to read:

34 13198. (a) The State Fire Marshal shall adopt a schedule of
35 fees to be paid by licensees or holders of certificates of registration
36 in an amount that is necessary to cover the cost of administering
37 and enforcing the provisions of this chapter by the State Fire
38 Marshal. Any city or county fire department, or any district
39 providing fire protection services may adopt a schedule of fees as

1 required to cover the cost of enforcing the provisions of this
2 chapter.

3 (b) The annual and renewal license shall be valid for the period
4 from January 1 to December 31. The annual license fee renewal
5 period shall begin on September 1 and end on November 1
6 preceding the license year for which the renewal is requested. A
7 penalty of 50 percent of the license fee shall be assessed in all
8 cases where the renewal fees are not paid on or before November
9 1, preceding the license year for which renewal is requested.

10 (c) The annual and renewal certificate of registration shall be
11 valid for the period from July 1 to June 30. The annual certificate
12 of registration fee renewal period shall begin on March 1 and end
13 on May 1 preceding the year for which the renewal is requested.
14 A penalty of 50 percent of the certificate of registration fee shall
15 be assessed in all cases where the renewal fees are not paid on or
16 before May 1, preceding the year for which renewal is requested.

17 (d) All annual and renewal fees collected pursuant to this section
18 shall be deposited in the State Fire Marshal Licensing and
19 Certification Fund, and shall be available upon appropriation by
20 the Legislature only for the purposes specified in Section 13195.

21 SEC. 10. No reimbursement is required by this act pursuant
22 to Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.